



HARMONIZED SYSTEM
REVIEW SUB-COMMITTEE

-
26th Session
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NR0278E1
(+Annexes I and II)

O. Eng.

Brussels, 9 July 2002.

PROPOSAL BY THE US ADMINISTRATION
TO AMEND THE NOMENCLATURE TO CHAPTER 41
(Item III.A.8 on Agenda)

Reference documents :

42.268 (TCRO)

NR0155E1 (RSC/23)

NR0165E3, Annex D/4 (RSC/23 - Report)

NR0177E1 (RSC/24)

NR0205E2, Annex C/9 (RSC/24 - Report)

NR0217E1 (RSC/25)

NR0265E3, Annex C/7 (RSC/25 - Report)

I. BACKGROUND

1. At its 25th Session, the Review Sub-Committee continued its examination of the US Administration's proposal to amend the Nomenclature to Chapter 41. The Sub-Committee focused its attention on establishing a clear distinction between raw hides and skins, classifiable in headings 41.01 - 41.03, on the one hand, and intermediate products of the leather industry falling in headings 41.04 - 41.06, on the other hand. The Sub-Committee also held a discussion on the proposal of the United States to insert the term "leather" in the text of headings 41.04 - 41.06. The Sub-Committee agreed to continue the discussion at its next session (Annex C/7 to Doc. NR0265E3).

II. SECRETARIAT COMMENTS

2. During the intersession the Secretariat has re-examined the US proposal to amend the Nomenclature to Chapter 41, as well as the different views expressed by the Sub-Committee at the 25th Session and offers the following conclusions for consideration by delegates.

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Note 2 (A)

3. Summarizing proposals expressed by the delegates at its 25th Session, the Secretariat understands that three different criteria can potentially be used to distinguish between lightly tanned (pre-tanned) raw hides and skins of headings 41.01 – 41.03 and tanned hides and skins of headings 41.04 – 41.06, i.e., (i) reversibility of a tanning process, (ii) permanency of the protection from decay (imputrescibility) of the hides and skins and (iii) thermal stability of the hides and skins.
4. It should be noted that the criterion currently used in the Nomenclature to this end is the reversibility of a tanning process.
5. The reversibility criterion is based on the essential chemical reaction that converts raw hides and skins into leather during a tanning process when certain proteins of animal tissue are transformed into compounds that resist decomposition. Tannins penetrate into the hide and modify the chemical structure of the protein thus making it less soluble and eliminating the effect of hydrolysis of the leather.
6. The Secretariat understands that the above-mentioned transformations of chemical structure of the protein constitute the essence and the main purpose of tanning.
7. Such transformations are reversible when chemical bonds can be broken, e.g., by the re-introduction of water, and tannins can be washed out. And, vice versa, irreversible tanning results in permanent chemical change in the collagen content present in raw hides and skins. Such permanent chemical change in its turn provides higher hydrothermal stability, mobility and flexibility to the leather after drying, as well as permanent imputrescibility of the product. Pictures reproduced in Annex I to this document show the structure of collagen fibres of a raw animal hide (pict. 1) and of a tanned one (pict. 2).
8. From the above, the Secretariat would conclude that the irreversibility criterion refers to chemical changes in hides and skins, i.e., to the cause, whereas imputrescibility or thermal stability criteria refer to the results of such chemical changes, i.e., to the effect.
9. Based on the foregoing, the Secretariat takes the view that the irreversibility criterion appears to be the most appropriate to distinguish between lightly tanned raw hides and skins and tanned ones in the Nomenclature.
10. Nevertheless, references to the two other criteria - imputrescibility and thermal stability of the hides and skins – could be inserted in the General Explanatory Note to Chapter 41. In addition, they could be redrafted in order to put together the information related to the raw hides and skins in part (I), and to the tanned hides and skins in part (II). The new text is reproduced in Annex II to this document, the proposed amendments being underlined.
11. The Secretariat leaves it to the Sub-Committee to take a decision in that respect.

Use of the term "leather"

12. The General Explanatory Notes to Chapter 41 (Part (II), second paragraph, page 778) indicate that "Hides and skins which have been tanned ... are known in trade as "leather". In addition, the term "leather" is used in the Explanatory Notes to headings 41.04 to 41.06 to refer to the products covered by these headings.
13. The term "leather" (and not "hides and skins") is used in definitions given by the Technical Committee on Rules of Origin for tanned leather (see Doc. 42.268).
14. Moreover, according to a number of different sources of information examined by the Secretariat, tanning is defined as a process that makes skin into leather, whereas tanned hides and skins are referred to as leather.
15. Hence, tanned hides and skins can be referred to either as "leather" or as "tanned hides and skins" since both terms appear to be equivalent. Therefore, insertion of the term "leather" in the Nomenclature doesn't seem to introduce any new product.
16. The Secretariat understands that there are several options to be considered by the Sub-Committee.
17. The first option is the proposal by the **US** Administration to replace the words "tanned or crust hides and skins" by the word "leather" (see Doc. NR0155E1). If the Sub-Committee accepts this proposal, the text of headings 41.04 to 41.06 would read :
 - 41.04 - Leather of bovine (including buffalo) or equine animals, without hair on, whether or not split, but not prepared after tanning or crusting.
 - 41.05 - Leather of sheep or lambs, without hair on, whether or not split, but not further prepared after tanning or crusting
 - 41.06 - Leather of other animals, without hair on, whether or not split, but not further prepared after tanning or crusting.

(French text :

- 41.04 - Cuirs et peaux de bovins (y compris les buffles) ou d'équidés, épilés, même refendus, mais non autrement préparés après le tannage ou le dessèchement (cuirs et peaux en croûte).
- 41.05 - Cuirs et peaux d'ovins, épilés, même refendus, mais non autrement préparés après le tannage ou le dessèchement (cuirs et peaux en croûte).
- 41.06 - Cuirs et peaux d'autres animaux, épilés, même refendus, mais non autrement préparés après le tannage ou le dessèchement (cuirs et peaux en croûte).

In this context current headings 41.07 to 41.13 also refer to "leather".

18. The second option was presented by the **US** Administration during the last session, i.e., to insert a reference to “leather” in parenthesis in the English text of headings 41.04 to 41.06. The headings concerned would then read as follows :
- 41.04 - Tanned or crust hides and skins [(leather)] of bovine (including buffalo) or equine animals, without hair on, whether or not split, but not further prepared.
 - 41.05 - Tanned or crust skins [(leather)] of sheep or lambs, without wool on, whether or not split, but not further prepared.
 - 41.06 - Tanned or crust hides and skins [(leather)] of other animals, without wool or hair on, whether or not split, but not further prepared.
19. With respect to this proposal, the Secretariat would like to point out that it would create a non-alignment with the French text, which is, in the view of the Secretariat, not desirable. The Sub-Committee may also prefer the status-quo.
20. The Secretariat leaves it to the Sub-Committee to decide whether or not the texts of headings 41.04 to 41.06 should be amended, as suggested by the **US**.

III. CONCLUSION

21. The Sub-Committee is invited to take into account the comments of the Secretariat set out above, when examining the possible amendments to the Nomenclature and the Explanatory Notes to Chapter 41.

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